



PATENT
Customer No. 32,127
Attorney Docket No. 97-813

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
Steven E. GARDELL et al.) Group Art Unit: 2668
Application No.: 09/177,700) Examiner: Hanh N. Nguyen
Filed: October 23, 1998)
For: MULTI-LINE APPEARANCE)
TELEPHONY VIA A COMPUTER)
NETWORK)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

PRE-GRANT APPLICATION FOR PATENT TERM ADJUSTMENT

In accordance with 37 C.F.R. § 1.705(b), Applicants hereby apply for a patent term adjustment under 35 U.S.C. § 154(b) of 785 days. This application is being filed with the issue fee payment, in compliance with 37 C.F.R. § 1.705(b)..

I. Statement of the Facts Involved

A. Correct Patent Term Adjustment and Basis for the Adjustment

Applicants received the Determination of Patent Term Adjustment with the Notice of Allowance and Fee(s) Due mailed from the Patent and Trademark Office (PTO) on December 14, 2005, stating that this application is entitled to 0 days of patent term adjustment. However, Applicants have calculated a patent term adjustment of 785 days as set forth below.

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The above-identified application was filed on October 23, 1998, and was the subject of a successful appeal to the Board of Patent Appeals and Interferences. Thus, the resulting patent will be entitled to extension of its term due to the delay associated with appellate review by the Board as set forth in 37 C.F.R. § 1.701(a)(3). The period of delay is the sum of the number of days beginning on the date of the filing of the Notice of Appeal and ending on the date of a final Board decision in favor of Applicants, pursuant to 37 C.F.R. § 1.701(c)(3). Furthermore, according to 37 C.F.R. § 1.701(d), the period of delay must be reduced by (1) any part of the appellate review that occurred within three years of the application filing date; and (2) any part of the appellate review during which Applicants failed to act with due diligence.

B. Successful Appeal

On appeal, the Board of Patent Appeals and Interferences issued a Remand to the Examiner on November 30, 2004. As set forth in 37 C.F.R. § 1.701(a)(3), the Board's Remand reversed an adverse determination of patentability under 35 U.S.C. § 154 because it remanded the application to the Examiner and was the last action by a panel of the Board prior to the mailing of a notice of allowance. Thus, the Remand by the Board constituted a decision in favor of the Applicants and entitles any resulting patent to a patent term extension under 35 U.S.C. § 154.

C. Relevant Dates

A Notice of Appeal was filed on October 7, 2002, with a supporting Appeal Brief filed on December 5, 2002, within the allotted two-month period for filing. The Examiner's Answer followed on February 26, 2003, and Applicants filed a Reply Brief with a certificate of mailing on April 22, 2003, which was apparently received by the

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Office on April 28, 2003. Pursuant to 37 C.F.R. § 1.8, the Reply Brief was timely filed even though it was apparently received by the Office two months and two days after the mailing date of the Examiner's Answer. The Board issued a Remand to the Examiner on November 30, 2004.

The period of delay associated with the successful appeal is the sum of the number of days beginning on October 7, 2002 (i.e., the date the Notice of Appeal was filed) and ending on November 30, 2004 (i.e., the date of the final Board decision in favor of Applicants). 37 C.F.R. § 1.701(c)(3). None of this period of delay occurred before October 23, 2001 (i.e., three years from the filing date), and during the period of appellate review, Applicants timely filed all necessary papers and did not seek any extensions of time. Thus, Applicants do not believe that any reduction of the period of extension is necessary under 37 C.F.R. § 1.701(d). Accordingly, the period of delay associated with the successful appeal is 785 days (i.e., the period from October 7, 2002 to November 30, 2004).

D. Terminal Disclaimer

The above-identified application is not subject to a Terminal Disclaimer.

II. Conclusion

For the foregoing reasons, the total patent term extension due to Patent Office delay is 785 days because the patent will issue pursuant to a favorable decision on appeal. This term of extension does not exceed 1825 days, or five years. 37 C.F.R. § 1.701(b). Because the PTO calculated an extension of 0 days, Applicants respectfully request that the patent term adjustment calculation be reconsidered and corrected.

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As required by 37 C.F.R. § 1.705(b)(1), this application is accompanied by a check for \$200.00 to cover the required fee. Please charge any deficiencies to our Deposit Account No. 07-2347. If there are any other fees due in connection with the filing of this request, please charge them to our Deposit Account No. 07-2347.

Respectfully submitted,

VERIZON CORPORATE SERVICES GROUP
INC.

Dated: March 9, 2006

By: 
Leonard C. Suchyta, Esq.
Reg. No. 25,707

The PTO did not receive the following
listed item(s). C. Mack

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MAIL STOP: Issue Fee
Examiner: Hanh N. NGUYEN
Group Art Unit: 2668

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FORMAL SUBMISSION OF:

- 1) Pre-Grant Application for Patent Term Adjustment

Title: MULTI-LINE APPEARANCE TELEPHONE VIA A COMPUTER NETWORK
Serial No. 09/177,700
Filing Date: October 23, 1998
First Named Inventor: Steven E. GARDELL
Atty. No. 99-813 RCE 1
Customer Number: 32127

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that the above-referenced documents are facsimile transmitted to the Patent and Trademark Office on the date shown below:

Christian R. Andersen

Date of Transmission: March 9, 2006